

Effective 5/12/2015

Repealed 3/28/2016

63G-6a-403 Prequalification of potential vendors.

- (1) As used in this section:
 - (a) "Closed-ended prequalification process" means a process to prequalify potential vendors under this section that is characterized by:
 - (i) a short, specified period of time during which potential vendors may be prequalified; and
 - (ii) a specified date at which prequalifications expire.
 - (b) "Open-ended prequalification process" means a process to prequalify vendors and potential vendors under this section that is characterized by an indeterminate period of time during any part of which vendors or potential vendors may be prequalified and the prequalification of previously prequalified vendors or potential vendors may be periodically renewed.
 - (c) "Vendor" means:
 - (i) a bidder;
 - (ii) an offeror; or
 - (iii) a contractor, including an architect or an engineer.
- (2) A procurement unit may, in accordance with this section:
 - (a) using a closed-ended prequalification process or an open-ended prequalification process:
 - (i) prequalify potential vendors to provide any procurement item or type of procurement item specified by the procurement unit; or
 - (ii) rank architects, engineers, or other professional service providers to begin the fee negotiation process, as provided in this chapter; and
 - (b) limit participation in a standard procurement process to the prequalified potential vendors for the specified procurement item or type of procurement item.
- (3) To prequalify potential vendors or rank professional service providers, a procurement unit shall issue a request for statement of qualifications.
- (4) A procurement unit that issues a request for statement of qualifications:
 - (a) shall:
 - (i) publish the request for statement of qualifications in accordance with the requirements of Section 63G-6a-406; and
 - (ii) state in the request for statement of qualifications:
 - (A) the procurement item or type of procurement item to which the request for statement of qualifications relates;
 - (B) the scope of work to be performed;
 - (C) the instructions and deadline for submitting a statement of qualifications;
 - (D) the criteria by which the procurement unit will evaluate statements of qualifications;
 - (E) whether the prequalification process is a closed-ended prequalification process or an open-ended prequalification process;
 - (F) if the prequalification process is a closed-ended prequalification process, the period of time during which the list of prequalified potential vendors will remain in effect, which may not be longer than 18 months after the list of prequalified potential vendors is made available to the public under Subsection (11)(b);
 - (G) if the prequalification process is an open-ended prequalification process, when a potential vendor may submit a statement of qualifications for the potential vendor to be considered for inclusion on the list of prequalified potential vendors; and
 - (H) that a procurement unit may limit participation in an invitation for bids or a request for proposals to the potential vendors that are prequalified to provide the specified procurement item or type of procurement item; and

- (b) may request the person submitting a statement of qualifications to provide:
 - (i) basic information about the person;
 - (ii) the person's experience and work history;
 - (iii) information about the person's management and staff;
 - (iv) information about the person's licenses, certifications, and other qualifications;
 - (v) any applicable performance ratings;
 - (vi) financial statements reporting the person's financial condition;
 - (vii) information about the person's work site safety program, including any requirement that the person imposes on subcontractors for a work site safety program; and
 - (viii) any other pertinent information.
- (5)
 - (a) In order to renew a prequalification, a vendor or potential vendor that has been previously prequalified through an open-ended prequalification process shall submit a statement of qualifications no more than 18 months after the previous prequalification of that vendor or potential vendor.
 - (b) A previously prequalified vendor or potential vendor submitting a statement of qualifications under Subsection (5)(a) shall comply with all requirements applicable at that time to a potential vendor seeking prequalification for the first time.
- (6) A procurement unit may at any time modify prequalification requirements of an open-ended prequalification process.
- (7) The criteria described in Subsection (4)(a)(ii)(D):
 - (a) shall include the prequalification requirements unique to the procurement;
 - (b) may include performance rating criteria; and
 - (c) may not be so restrictive that the criteria unreasonably limit competition.
- (8) A procurement unit may, before making a final list of prequalified vendors, request additional information to clarify responses made to the request for statement of qualifications.
- (9) A potential vendor shall be included on the list of prequalified potential vendors if the potential vendor:
 - (a) submits a timely, responsive response to the request for statement of qualifications; and
 - (b) meets the criteria for qualification described in Subsection (4)(a)(ii)(D).
- (10) If a request for statement of qualifications will result in only one potential vendor being placed on the list of prequalified potential vendors:
 - (a) the procurement unit shall cancel the request for statement of qualifications; and
 - (b) the list may not be used by the procurement unit.
- (11) The procurement unit shall:
 - (a) before making the list of prequalified potential vendors available to the public, provide each potential vendor who provided information in response to the request, but who did not meet the minimum qualifications for placement on the list, a written justification statement describing why the potential vendor did not meet the criteria for inclusion on the list; and
 - (b) make the list of prequalified potential vendors available to the public within 30 days after:
 - (i) completing the evaluation process, if the prequalification process is a closed-ended prequalification process; or
 - (ii) updating the list of prequalified potential vendors, if the prequalification process is an open-ended prequalification process.